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Attorneys for Debtor

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA DIVISION

In re	)	Case No. 8:17-bk-10976-TA
	)	
ZIA SHLAIMOUN,	)	Chapter 7
	)	
	)	<b>DEBTOR'S OMNIBUS REPLY TO (1)</b>
	)	<b>CHAPTER 7 TRUSTEE'S RESPONSE,</b>
	)	<b>and (2) AMY HSIAO/HYBRID FINANCE</b>
	)	<b>OPPOSITION, TO DEBTOR'S MOTION</b>
	)	<b>TO DISMISS CASE; DECLARATIONS</b>
	)	<b>OF ZIA SHLAIMOUN AND CHARLES</b>
	)	<b>SHAMASH IN SUPPORT THEREOF</b>
	)	
	)	Date: May 23, 2017
	)	Time: 11:00 a.m.
Debtor(s).	)	Ctrm: 5B
	)	411 West Fourth Street
	)	Santa Ana, CA 92701

**TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY  
JUDGE, THE UNITED STATES TRUSTEE, AND OTHER INTERESTED PARTIES:**

ZIA SHLAIMOUN ("Debtor") hereby submits his Omnibus Reply ("Reply") to the  
Chapter 7 Trustee's ("Trustee") Response and the Amy Hsiao/Hybrid Finance, Ltd.  
("Hsiao/Hybrid") Opposition to Debtor's Motion to Dismiss Case ("Motion"). In support of his  
Reply, Debtor respectfully submits the following:

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1           1.       Trustee has, understandably, been reluctant to administer this case as an asset case.  
2 This is evidenced both by the contents of his response to Debtor's Motion and by the course of  
3 his actions in this case, as reflected by his filed non-opposition to Hsiao's motion for relief from  
4 stay, as well as his written stipulation to grant Hybrid's motion for relief from stay. Both of these  
5 matters were referenced in the Motion, as well as the fact that in both cases Debtor made efforts  
6 to ensure Trustee was aware of them before they were ruled on, as it appeared he had not received  
7 notice of either motion given that they were filed before his appointment. These efforts included  
8 not only filing oppositions to the two motions, but discussing them with Trustee via email and/or  
9 teleconference. Both motions were nevertheless granted.<sup>1</sup>

10           2.       Notwithstanding the foregoing, Hsiao and Hybrid, the self-admitted two main  
11 creditors in the case, now wish to trap Debtor in bankruptcy so as to gain some imagined leverage  
12 over him in their respective actions, while forcing Trustee to administer the case, despite the fact  
13 that both of them worked diligently with Trustee to obtain relief from stay early on in the case  
14 (without opposition by Debtor other than as set forth above). In order to accomplish this goal,  
15 Hsiao/Hybrid disingenuously ignore the above facts and nitpick the chapter 13 petition (filed  
16 before current counsel was engaged).

17           3.       Hsiao/Hybrid nitpick the petition in an effort to paint Debtor as having  
18 intentionally misrepresented assets. However, this purposely ignores the fact that Debtor actually  
19 explained, highlighted and encouraged Trustee to pursue the disputed option described in the  
20 Hsiao motion and Debtor's dismissal motion, and made good faith attempts to bring to Trustee's  
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22           <sup>1</sup>With respect to Hsiao, the matter involved an unlawful detainer action and a disputed option.  
23 Debtor filed an opposition so that Trustee could review the disputed option, but Trustee ultimately filed a  
24 non-opposition stating that he had reviewed the motion, the Debtor's opposition, and documents  
25 submitted by both parties; that he had discussed the matter with both parties; that he was not asserting an  
interest in the disputed option on behalf of the Estate; and that he did not oppose relief from stay. As a  
result, the Hsiao MFRAS was granted by order entered April 5, 2017. See Motion and RFJN thereto,  
Exhibits 2-6.

26           With respect to Hybrid, its motion involved its self-described "highly complex" lawsuit alleging  
27 fraud and a fraudulent transfer of property and resulting proceeds from its eventual sale. As noted above,  
28 Debtor opposed the motion primarily on the grounds that Trustee had not been served. Moreover,  
Debtor's counsel communicated with Trustee regarding the matter given that it, like the Hsiao matter,  
involved potential/alleged assets. As with the Hsiao matter, Trustee declined to pursue the matter and  
instead stipulated to relief from stay with Hybrid, which was granted by order entered April 18, 2017.  
See Motion and RFJN thereto, Exhibits 7-10.

1 attention the allegations in the Hybrid motion regarding other potential/alleged assets. It also  
2 ignores that no schedules have been filed from which any party could draw the conclusion being  
3 drawn by Hsiao/Hybrid. Simply put, nothing has been purposely misrepresented.<sup>2</sup>

4 4. As noted in the Motion, Debtor has no opposition to a bar against refileing under  
5 Section 109(g) in connection with the dismissal.

6 5. In summary, there is no purpose to this case other than for the self admitted two  
7 main creditors in this case to trap Debtor in bankruptcy so as to gain some imagined leverage  
8 over him in their respective actions, despite having already received relief from stay in the early  
9 stages of the case, and Trustee having shown by his actions that he does not believe it would be  
10 fruitful to administer the case (understandably so given the complexities and cost of pursuing the  
11 matters described in the Hsiao and Hybrid relief from stay motions). Moreover, these two main  
12 creditors are more than able to protect their own interests outside of the bankruptcy.

13 6. Given the foregoing, the Court should dismiss the case.

14 **WHEREFORE**, Debtor respectfully requests that the Court (1) dismiss this case, and (2)  
15 grant such other and further relief as the Court deems just and proper.

16  
17 Dated: May 16, 2017

Respectfully Submitted,

18 CACERES & SHAMASH, LLP

19 By: /s/ Charles Shamash  
20 Joseph E. Caceres, Esq.  
21 Charles Shamash, Esq.  
22 Attorneys for Debtors  
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26 <sup>2</sup>With regard to the petition (which was filed by prior counsel), the alleged defects thereon were  
27 mainly non-existent (e.g., estimated liabilities, as Hybrid did not have any judgment as of the petition  
28 date and debtor disputed its alleged claim, and rental of residence, as Debtor felt the property should  
have rightfully been his due to the disputed option); typographical errors (e.g., Debtor's address); or  
inadvertent (nature of claims as consumer or business). As for the credit counseling certificate, the fact  
that the credit counseling was taken the day after the case was filed is grounds to dismiss the case, not  
keep it in. Any other errors in the petition were unintentional.

**DECLARATION OF ZIA SHLAIMOUN**


I, Zia Shlaimoun, do hereby declare as follows:

1. I am the debtor in this case. I am over the age of 18. I have personal knowledge of the matters set forth in this declaration, except where stated to be on information and belief, and if called to testify could and would testify competently thereto.

2. Hsiao/Hybrid nitpick the petition in an effort to paint me as having intentionally misrepresented assets. However, I believe this purposely ignores the fact that I, through counsel, actually explained, highlighted and encouraged Trustee to pursue the disputed option described in the Hsiao motion for relief from stay and my dismissal motion, and made good faith attempts to bring to Trustee's attention the allegations in the Hybrid relief from stay motion regarding other potential/alleged assets. It also ignores that no schedules have been filed from which any party could draw the conclusion being drawn by Hsiao/Hybrid. Simply put, nothing has been purposely misrepresented.<sup>3</sup>

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 16, 2017 at Irvine, California.



Zia Shlaimoun

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<sup>3</sup>With regard to the petition (which was filed by my prior counsel), the alleged defects thereon were mainly non-existent (e.g., estimated liabilities, as Hybrid did not have any judgment as of the petition date and I dispute its alleged claim, and rental of residence, as I felt the property should have rightfully been mine due to the disputed option); typographical errors (e.g., my address); or inadvertent (nature of claims as consumer or business). As for the credit counseling certificate, according to my counsel the fact that the credit counseling was taken the day after the case was filed is grounds to dismiss the case, not keep it in. Any other errors in the petition were unintentional.

**DECLARATION OF CHARLES SHAMASH**

I, Charles Shamash, do hereby declare as follows:

1. My firm, Caceres & Shamash, LLP, is counsel for the Debtor in this case. I am an attorney licensed to practice in the courts of the State of California and in the United States District Court for the Central District of California. I am over the age of 18. I have personal knowledge of the matters set forth in this declaration, except where stated to be on information and belief, and if called to testify could and would testify competently thereto.

2. Both Hsiao's and Hybrid's motions for relief from stay were referenced in the Motion to Dismiss, and in both cases I, on Debtor's behalf, made efforts to ensure Trustee was aware of them before they were ruled on, as it appeared he had not received notice of either motion given that they were filed before his appointment. These efforts included not only filing oppositions to the two motions, but discussing them with Trustee via email and/or teleconference. Both motions were nevertheless granted.<sup>4</sup>

3. On Debtor's behalf, I explained, highlighted and encouraged Trustee to pursue the disputed option described in the Hsiao relief from stay motion and Debtor's dismissal motion, and made good faith attempts to bring to Trustee's attention the allegations in the Hybrid relief from stay motion regarding other potential/alleged assets.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 16, 2017 at Beverly Hills, California.

/s/ Charles Shamash

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Charles Shamash

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<sup>4</sup>With respect to Hsiao, the matter involved an unlawful detainer action and a disputed option. Debtor filed an opposition so that Trustee could review the disputed option, but Trustee ultimately filed a non-opposition stating that he had reviewed the motion, the Debtor's opposition, and documents submitted by both parties; that he had discussed the matter with both parties; that he was not asserting an interest in the disputed option on behalf of the Estate; and that he did not oppose relief from stay. As a result, the Hsiao MFRAS was granted by order entered April 5, 2017. See Motion and RFJN thereto, Exhibits 2-6.

With respect to Hybrid, its motion involved its self-described "highly complex" lawsuit alleging fraud and a fraudulent transfer of property and resulting proceeds from its eventual sale. As noted above, Debtor opposed the motion primarily on the grounds that Trustee had not been served. Moreover, I communicated with Trustee regarding the matter given that it, like the Hsiao matter, involved potential/alleged assets. As with the Hsiao matter, Trustee declined to pursue the matter and instead stipulated to relief from stay with Hybrid, which was granted by order entered April 18, 2017. See Motion and RFJN thereto, Exhibits 7-10.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
8200 Wilshire Blvd., Suite 400, Beverly Hills, CA 90211

A true and correct copy of the foregoing documents entitled (*specify*): Debtor's Omnibus Reply to (1) Chapter 7 Trustee's Response, and (2) Amy Hsiao/Hybrid Finance Opposition, to Debtor's Motion to Dismiss Case; Declarations of Zia Shlaimoun and Charles Shamash in Support Thereof will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 05/16/2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Eric V Anderton eanderton@catanzarite.com, bphillips@catanzarite.com
- Alan L. Armstrong alan@alanarmstrong.com
- Thomas H Casey (TR) msilva@tomcaseylaw.com, thc@trustesolutions.net
- Timothy P Dillon tdillon@dillongerardi.com, rabrera@dillongerardi.com
- Scott L Keehn scottk@keehnlaw.com, chrisf@keehnlaw.com
- Charles Shamash cs@locs.com, generalbox@locs.com
- Timothy J Silverman tsilverman@scheerlawgroup.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov
- Zann R Welch ecfnofices@ascensioncapitalgroup.com

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:**

On (*date*) \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 05/16/2017, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

**Bankruptcy Judge – VIA OVERNIGHT DELIVERY:**

The Honorable Theodor C. Albert, U.S. Bankruptcy Judge  
United States Bankruptcy Court  
411 West Fourth Street, Suite 5085  
Santa Ana, CA 92701

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

05/16/2017  
Date

Charles Shamash  
Type Name

/s/ Charles Shamash  
Signature